

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant(s)	: Paul Snyder	Confirmation No.:	8007
Appln. No.	: 10/671,890	Group Art Unit:	2195
Filed	: September 29, 2003	Examiner:	Kawsar, Abdullah Al
For	: DYNAMIC TRANSACTION CONTROL WITHIN A HOST TRANSACTION PROCESSING SYSTEM		

APPEAL BRIEF UNDER 37 C.F.R. §41.37

United States Patent and Trademark Office
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Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

This appeal is from the Examiner's rejection of claims 1 and 3-49 as set forth in the Final Office Action dated November 20, 2009. A Notice of Appeal was timely submitted on January 20, 2010. Payment of the Appeal Brief fee set forth in 37 C.F.R. §41.20(b)(2) is submitted herewith. Accordingly, this Appeal Brief is being timely submitted, and Appellants' believe that no additional fees are necessary at this time. However, if any fees are necessary for consideration of this Appeal Brief, the undersigned authorizes the charging of any filing fees for the Appeal Brief and/or any necessary extension of time fees to Deposit Account No. 09-0457.

(I) REAL PARTY IN INTEREST

The real party in interest is International Business Machines Corporation of Armonk, New York, assignee of the entire interest in the above-identified application by an assignment recorded in the U.S. Patent and Trademark Office on September 29, 2003, at Reel 014559 Frame 0381.

(II) RELATED APPEALS AND INTERFERENCES

The Appellants, their legal representatives and the Assignees are not currently aware of any appeals, interferences, or judicial proceedings that may directly affect or be directly affected by or have some bearing on the Board's decision in this appeal. Attached hereto is a Related Proceedings Appendix showing no related appeals or interferences.

(III) STATUS OF THE CLAIMS

In the Final Office Action dated November 20, 2009 ("Final Office Action"), claims 1 and 3-49 are pending and rejected. Claim 2 is canceled. No claims are allowed, objected to, or withdrawn. Accordingly, claims 1 and 3-49 are being appealed and are listed in the "Claims Appendix" attached herewith.

(IV) STATUS OF THE AMENDMENTS

All amendments have been entered. Accordingly, claims 1 and 3-49 as presented in the Amendment filed August 24, 2009, are being appealed and are listed in the "Claims Appendix" attached herewith.

(V) SUMMARY OF THE CLAIMED SUBJECT MATTER**Independent Claim 1**

By way of non-limiting example, the invention provides a method for managing a transaction processing system. The method includes defining at least one criterion including all of: a system level criterion, a transaction level criterion, a multi-transactional level criterion, and a workload characteristic, using a server 130 (see, e.g., step 820 of FIG. 3; page 23, lines 2-3; page 8, lines 15-19, and Table 1 at pages 9 and 10).

The method also includes defining at least one threshold metric for each of the at least one criterion using the server 130 (see, e.g., step 830 of FIG. 3; page 23, lines 3-5; page 8, lines 15-19; and Table 1 at pages 9 and 10). The method additionally includes defining at least one trigger action in response to the at least one threshold metric using the server 130 (see, e.g., step 840 of FIG. 3; page 23, lines 5-6; page 8, lines 15-19; and Table 1 at pages 9 and 10).

The method further includes performing the at least one trigger action in response to the at least one threshold metric being met using the server (see, e.g., step 870 of FIG. 3; page 23, lines 10-11; page 12, lines 16-20; step 450 of FIG. 2C; page 15, lines 9-18; step 550 of FIG. 2D; page 17, lines 5-8; step 750 of FIG. 2E; page 21, lines 1-5). The method also includes implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source (see, e.g., page 8, lines 15-19; and Table 1 at pages 9 and 10; page 18, lines 18-21; page 19, lines 1-2; Table 2 at pages 19 and 20).

Independent Claim 19

By way of non-limiting example, the invention provides a method of managing a system. The method includes determining current conditions of a workload characteristic using a server 130 (see, e.g., step 320 of FIG. 2B; page 14, lines 1-14). The method also includes evaluating the current conditions of the workload characteristic using the server 130 (see, e.g., step 410 of FIG. 2C; page 14, lines 15-16; page 15 lines 1-9).

The method additionally includes dynamically adjusting system administration criteria based on a threshold metric associated with the current conditions of the workload characteristic using the server (see, e.g., step 450 of FIG. 2C; page 15, lines 3-13; page 16, lines 1-10). The method further includes implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source (see, e.g., page 8, lines 15-19; and Table 1 at pages 9 and 10; page 18, lines 18-21; page 19, lines 1-2; Table 2 at pages 19 and 20).

Independent Claim 26

By way of non-limiting example, the invention provides a computer system for managing a transaction processing system. The computer system includes a means for defining at least one criterion including all of: a system level criterion, a transaction level criterion, a multi-transactional level criterion, and a workload characteristic of the transaction processing system.

The structure, material, or act corresponding to the means for defining at least one criterion is the server 130 shown in FIG. 1 and described at lines 8-17 of page 7. (See also, e.g., step 820 of FIG. 3; page 23, lines 2-3; page 8, lines 15-19; Table 1 at pages 9 and 10; page 13, lines 3-5 and 9-10).

The computer system also includes a means for defining at least one threshold metric for each of the at least one criterion. The structure, material, or act corresponding to the means for defining at least one threshold metric for each of the at least one criterion is the server 130 shown in FIG. 1 and described at lines 8-17 of page 7. (See also, e.g., step 830 of FIG. 3; page 23, lines 3-5; page 8, lines 15-19; Table 1 at pages 9 and 10; page 13, lines 3-5 and 9-10).

The computer system also includes a means for defining at least one trigger action in response to the at least one threshold metric. The structure, material, or act corresponding to the means for defining at least one trigger action in response to the at least one threshold metric is the server 130 shown in FIG. 1 and described at lines 8-17 of page 7. (See also, e.g., step 840 of FIG. 3; page 23, lines 5-6; page 8, lines 15-19; Table 1 at pages 9 and 10; page 13, lines 3-5 and 9-10).

The computer system further includes a means for implementing an interval criterion matrix, which is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source. The structure, material, or act corresponding to the means for implementing an interval criterion matrix is the server 130 shown in FIG. 1 and described at lines 8-17 of page 7. (See also, e.g., page 8, lines 15-19; and Table 1 at pages 9 and 10; page 18, lines 18-21; page 19, lines 1-2; Table 2 at pages 19 and 20; page 13, lines 3-5 and 9-10).

Dependent Claim 29

Claim 29 depends from independent claim 26, and further recites a means for acquiring a transaction list of currently executing transactions. The structure, material, or act corresponding to the means for acquiring a transaction list of currently executing transactions is the server 130 shown in FIG. 1 and described at lines 8-17 of page 7. (See also, e.g., step 500 of FIG. 2D; page 16, lines 12-16; page 13, lines 3-5 and 9-10).

The system also includes a means for collecting details for each of the currently executing transactions. The structure, material, or act corresponding to the means for collecting details for each of the currently executing transactions is the server 130 shown in FIG. 1 and described at lines 8-17 of page 7. (See also, e.g., step 510 of FIG. 2D; page 16, lines 16-17; page 13, lines 3-5 and 9-10).

The system additionally includes a means for evaluating transaction details against the interval criterion matrix wherein the interval criterion matrix further defines thresholds associated with the currently executing transactions. The structure, material, or act corresponding to the means for evaluating transaction details against the interval criterion matrix is the server 130 shown in FIG. 1 and described at lines 8-17 of page 7. (See also, e.g., step 520 of FIG. 2D; page 16, lines 17-18; page 13, lines 3-5 and 9-10).

The system further includes a means for performing threshold actions when the evaluation step determines a threshold has been met. The structure, material, or act corresponding to the means for performing threshold actions is the server 130 shown in FIG. 1 and described at lines 8-17 of page 7. (See also, e.g., step 550 of FIG. 2D; page 17, lines 1-9; page 13, lines 3-5 and 9-10).

Independent Claim 32

By way of non-limiting example, the invention provides a system for managing a transaction processing system comprising computer program code stored on a storage media. The system includes a means for determining current conditions of at least a workload characteristic. The structure, material, or act corresponding to the means for determining current conditions of at least a workload characteristic is the server 130 shown in FIG. 1 and described at lines 8-17 of page 7. (See also, e.g., step 320 of FIG. 2B; page 14, lines 1-14).

The system also includes a means for evaluating the current conditions of at least the workload characteristic. The structure, material, or act corresponding to the means for evaluating the current conditions of at least the workload characteristic is the server 130 shown in FIG. 1 and described at lines 8-17 of page 7. (See also, e.g., step 410 of FIG. 2C; page 14, lines 15-16; page 15 lines 1-9).

The system additionally includes a means for dynamically adjusting system administration criteria based on a threshold metric associated with the current conditions of at least the workload characteristic. The structure, material, or act corresponding to the means for dynamically adjusting system administration criteria based on a threshold metric associated with the current conditions of at least the workload characteristic is the server 130 shown in FIG. 1 and described at lines 8-17 of page 7. (See also, e.g., step 450 of FIG. 2C; page 15, lines 3-13; page 16, lines 1-10).

The system further includes a means for implementing an interval criterion matrix, which is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source. The structure, material, or act corresponding to the means for implementing an interval criterion matrix is the server 130 shown in FIG. 1 and described at lines 8-17 of page 7. (See also, e.g., page 8, lines 15-19; and Table 1 at pages 9 and 10; page 18, lines 18-21; page 19, lines 1-2; Table 2 at pages 19 and 20; page 13, lines 3-5 and 9-10).

Dependent Claim 37

Claim 37 depends indirectly from independent claim 32, and further recites the means for dynamically adjusting adjusts the system administration criteria when both the system level threshold metric and the transaction level threshold metric are met. As noted with respect to claim 32, the structure, material, or act corresponding to the means for dynamically adjusting system administration criteria based on a threshold metric associated with the current conditions of at least the workload characteristic is the server 130 shown in FIG. 1 and described at lines 8-17 of page 7. (See also, e.g., step 450 of FIG. 2C; page 15, lines 3-13; page 16, lines 1-10).

Independent Claim 39

By way of non-limiting example, the invention provides a computer program product comprising computer program code stored on a storage medium. The computer program product includes a first computer code to define at least one criterion including all of: a system level criterion, a transaction level criterion, a multi-transactional level criterion, and a workload characteristic of the transaction processing system (see, e.g., step 820 of FIG. 3; page 23, lines 2-3; page 8, lines 15-19; Table 1 at pages 9 and 10; page 13, lines 3-5 and 9-10).

The computer program product also includes a second computer code to define at least one threshold metric for each of the at least one criterion (see, e.g., step 830 of FIG. 3; page 23, lines 3-5; page 8, lines 15-19; Table 1 at pages 9 and 10; page 13, lines 3-5 and 9-10). The computer program product further includes a third computer code to define at least one trigger action in response to the at least one threshold metric (see, e.g., step 840 of FIG. 3; page 23, lines 5-6; page 8, lines 15-19; Table 1 at pages 9 and 10; page 13, lines 3-5 and 9-10).

The computer program product additionally includes a fourth computer code to perform the at least one trigger action in response to the at least one threshold metric being met (see, e.g., step 870 of FIG. 3; page 23, lines 10-11; page 12, lines 16-20; step 450 of FIG. 2C; page 15, lines 9-18; step 550 of FIG. 2D; page 17, lines 5-8; step 750 of FIG. 2E; page 21, lines 1-5; ;

page 13, lines 3-5 and 9-10). The computer program product also includes a fifth computer code to implement an interval criterion matrix, which is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source (see, e.g., page 8, lines 15-19; and Table 1 at pages 9 and 10; page 18, lines 18-21; page 19, lines 1-2; Table 2 at pages 19 and 20; page 13, lines 3-5 and 9-10).

(VI) GROUND OF REJECTION TO BE REVIEWED ON APPEAL

(A) Claims 1 and 3-49 are rejected under 35 U.S.C. §103(a) for being unpatentable over U.S. Publication No. 2003/0061265 issued to Maso, *et al.* (“Maso”) in view of U.S. Patent No. 6,738,933 issued to Fraenkel, *et al.* (“Fraenkel”).

(VII) ARGUMENTS

(A) Claims 1 and 3-49 are rejected under 35 U.S.C. §103(a) for being unpatentable over U.S. Publication No. 2003/0061265 issued to Maso, et al. (“Maso”) in view of U.S. Patent No. 6,738,933 issued to Fraenkel, et al. (“Fraenkel”).

Claims 1, 3-11, 13-15, 18, 40, 43, 44, and 46-49

The rejection of claims 1, 3-11, 13-15, 18, 40, 43, 44, and 46-49 under 35 U.S.C. §103(a) is in error, and the decision to reject these claims should be reversed.

To establish a *prima facie* case of obviousness, all claim limitations must be taught or suggested by the prior art. *See, In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974); *see also, In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).¹ If the prior art reference(s) do not teach or suggest all of the claim limitations, Office personnel must explain why the differences between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art (MPEP §2141). Appellants submit that no proper combination of the applied art teaches or suggests each and every feature of the claimed invention.

¹ While the *KSR* court rejected a rigid application of the teaching, suggestion, or motivation (“TSM”) test in an obviousness inquiry, the [Supreme] Court acknowledged the importance of identifying “a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does” in an obviousness determination. *Takeda Chemical Industries, Ltd. v. Alphapharm Pty., Ltd.*, 492 F.3d 1350, 1356-1357 (Fed. Cir. 2007) (quoting *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1731 (2007)).

Appellants' invention relates to transaction processing systems, and more particularly, to autonomic control and administration of individual transactions or groups of transactions based upon their unique current resource usage characteristics relative to the present status of one or more present characteristics of the transaction processing system or the host computer system. More specifically, independent claim 1 recites:

1. A method for managing a transaction processing system, the method comprising:
 - defining at least one criterion including all of: a system level criterion, a transaction level criterion, a multi-transactional level criterion, and a workload characteristic, using a server;
 - defining at least one threshold metric for each of the at least one criterion using the server;
 - defining at least one trigger action in response to the at least one threshold metric using the server;
 - performing the at least one trigger action in response to the at least one threshold metric being met using the server; and
 - implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source.

The Examiner asserts that Maso teaches all of the features of independent claim 1 except for implementing an interval criterion matrix (Final Office Action, pages 2-3). Appellants agree that Maso does not teach *implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source*, as recited in the claimed invention. However, the Examiner asserts that Fraenkel teaches this feature at col. 3, lines 1-43 and lines 62-67; col. 4, lines 1-10; and col. 25, lines 21-29 (Final Office Action, page 3). The Examiner concludes that it would have been obvious to combine the teachings of Fraenkel into the method of Maso, and that the combined teachings render the claimed invention obvious (Final Office Action, page 3). Appellants respectfully disagree with the conclusion of obviousness for the following reasons. Particularly, as discussed herein, Appellants submit that the rejection of claim 1 is unsustainable because: (i) the applied art does not teach or suggest *implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is*

created by an administrator or accessed from a pre-built electronic source; (ii) the applied art does not teach or suggest defining at least one criterion including all of: a system level criterion, a transaction level criterion, a multi-transactional level criterion, and a workload characteristic, using a server; and (iii) the rejection is improperly conclusory because the Examiner has not articulated the requisite findings of fact to support an obviousness determination under 35 USC §103.

(i) The applied art does not teach or suggest implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source.

The Examiner admits, and Appellants agree, that Maso does not teach *implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source*, as recited in claim 1. Contrary to the Examiner's assertions, Fraenkel does not disclose or suggest *implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source*, as recited in the claimed invention. Instead, Fraenkel provides software systems to monitor post-deployment operations of a web site system or other transactional server. (Col. 2, lines 28-50.) During the monitoring session, each agent computer generates performance data that indicates one or more characteristics of a transactional server's performance. (Col. 3, lines 24-32.) This data is reported so that a user can view and compare performance of a transactional server from different operator-specified locations, organizations, ISPs, or attribute types. (Col. 3, lines 44-60.) For example, a report may be generated for a user on transactional health and the report may be broken down according to a computer attribute, such as geographic location. (Col. 17, lines 14-34.) Fraenkel allows this data to be transmitted when a transaction fails or when path delays between the agent computer and the transactional server exceeds a preprogrammed threshold. (Col. 4, lines 11-23.)

However, Fraenkel makes no mention of an interval criterion matrix, much less of an interval criterion matrix that is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source. For example, the passages of Fraenkel identified by

the Examiner are reproduced below, and do not disclose an interval criterion matrix as recited and described in the claimed invention.

In accordance with another aspect of the invention, the controller provides a user interface and various functions for a user to remotely select the agent computer(s) to include in a monitoring session, assign attributes to such computers (such as the location, organization, ISP and/or configuration of each computer), and assign transactions and execution schedules to such computers. The execution schedules may be periodic or repetitive schedules, (e.g., every hour, Monday through Friday), so that the transactional server is monitored on a continuous or near-continuous basis. The controller preferably represents the monitoring session on the display screen as an expandable tree in which the transactions and execution schedules are represented as children of the corresponding computers. Once a monitoring session has been defined, the controller dispatches the transactions and execution schedules to the respective agent computers over the Internet or other network. The controller also preferably includes functions for the user to record and edit transactions, and to define alert conditions for generating real-time alert notifications. The controller may optionally be implemented as a hosted application on an Internet or intranet site, in which case users may be able to remotely set up monitoring sessions using an ordinary web browser.

During the monitoring session, each agent computer executes its assigned transactions according to its assigned execution schedule, and generates performance data that indicates one or more characteristics of the transactional server's performance. The performance data may include, for example, the server response time and pass/fail status of each transaction execution event. The pass/fail status values may be based on verification points (expected server responses) that are defined within the transactions. The agent computers preferably report the performance data associated with a transaction immediately after transaction execution, so that the performance data is available substantially in real-time for viewing and generation of alert notifications. In the preferred embodiment, the performance data generated by the various agent computers is aggregated in a centralized database which is remotely accessible through a web-based reports server. The reports server provides various user-configurable charts and graphs that allow the operator of the transactional server to view the performance data associated with each transaction.

(Fraenkel, col. 3, lines 1-43).

In accordance with another aspect of the invention, the performance data is monitored substantially in real-time (preferably by the controller) to check for any user-defined alert conditions. When such an alert condition is detected, a notification message may be sent by email, pager, or other communications method to an appropriate person. The alert conditions may optionally be specific to a particular location, organization, ISP, or other attribute. For example, a system administrator responsible for an Atlanta branch office may request to be

notified when a particular problem (e.g., average response time exceeds a particular threshold) is detected by computers in that office. In the preferred embodiment, upon receiving an alert notification, the administrator can use a standard web browser to access the reports server and view the details of the event or events that triggered the notification.

(Fraenkel, col. 3, lines 62-67 through col. 4, lines 1-10).

During a server resource monitoring session the server agent 166 polls the various components of the transactional server 30 for the parameters associated with the server resources according to either a default schedule or a schedule created by the user. The schedule may include polling monitored servers every five seconds, every thirty seconds, etc. Once created, a server resource monitoring session, in one embodiment, runs continuously according to its specified schedule until the user ends the monitoring session.

(Fraenkel, col. 25, lines 21-29).

The above-noted passages of Fraenkel do not even mention an interval criterion matrix, much less an interval criterion matrix that is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source, much less implementing such an interval criterion matrix. Accordingly, while Fraenkel provides a monitoring system, Appellants submit that Fraenkel does not teach *implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source*, as recited in the claimed invention.

In contrast to Fraenkel, exemplary embodiments of the claimed invention include implementation of an interval criterion matrix. An example of an interval criterion matrix is shown in Table 1 of Appellants' specification (reproduced below). The interval criterion matrix permits a user to define one or more system level metrics 601, one or more transaction level metrics 603 associated with the respective system level metrics, and an action 604 associated with a particular pair of a system level metric and a transaction level metric. When the system level metric and the transaction level metric are both true, then the system performs the action associated with these metrics (Appellants' specification, page 12, lines 16-18).

For example, row 1 of the interval criterion matrix in Table 1 defines a system level metric 601 as "average system processor utilization is in the 50%-75% range." Row 1 also defines a transaction level metric 603 associated with this system level metric as "transaction

processor utilization is greater than 30 seconds.” Row 1 further defines an action 604 to be taken when both the system level metric and the transaction level metric are met (i.e., true).

TABLE 1

<u>Example Interval Criterion Matrix</u>			
(601) System Level Metric	(602) Transaction Identifier	(603) Transaction Level Metric	(604) Facility Action
1 Average System Processor Utilization is in the 50%–75% range	AA*	Transaction Processor Utilization is greater than 30 Seconds	Reduce Priority of Transaction
2 Average System Processor Utilization is in the 50%–75% range	AA*	Transaction Processor Utilization is greater than 45 Seconds	Reduce Priority of Transaction & Quiesce Transaction for 10 Seconds
3 Average System Processor Utilization is in the 50%–75% range	AA*	Transaction Processor Utilization is greater than 60 seconds	Terminate Transaction
4 Average System Processor Utilization is in the 75%–99% range	AA*	Transaction Processor Utilization is greater than 10 Seconds	Reduce Priority of Transaction
5 Average System Processor Utilization is in the 75%–99% range	AA*	Transaction Processor Utilization is greater than 15 Seconds	Reduce Priority of Transaction & Quiesce Transaction for 10 Seconds
6 Average System Processor Utilization is in the 75%–99% range	AA*	Transaction Processor Utilization is greater than 20 Seconds	Terminate Transaction
7 Average System Processor Utilization is 100%	AA*	Transaction Processor Utilization is greater than 2 Seconds	Reduce Priority of Transaction
8 Average System Processor Utilization is 100%	AA*	Transaction Processor Utilization is greater than 4 Seconds	Reduce Priority of Transaction & Quiesce Transaction for 10 Seconds
Average System Processor Utilization is 100%	AA*	Transaction Processor Utilization is greater than 6 Seconds	Terminate Transaction

As described at page 8-12 of Appellants' specification, the interval criterion matrix contains configurable data. That is to say, the system level metrics 601, the transaction identifiers 602, the transaction level metrics 603, and the actions 604 are configurable and may be created by an administrator or accessed from a pre-built electronic source. By implementing the interval criterion matrix as recited in the claimed invention, embodiments of the invention provide the ability to act upon individual transactions when abnormal circumstances occur, rather than performing system-wide or global action which may unnecessarily hinder other transactions (Appellants' specification, page 23, lines 13-16).

In contrast to Appellants' invention, Fraenkel makes no mention of an interval criterion matrix, much less of implementing an interval criterion matrix as recited and described by Appellants. Therefore, Fraenkel does not teach *implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source*, as recited in claim 1. As the Examiner admits that Maso also fails to teach this feature, it follows that the applied art does not teach or suggest all of the features of claim 1.

(ii) The applied art does not teach or suggest defining at least one criterion including all of: a system level criterion, a transaction level criterion, a multi-transactional level criterion, and a workload characteristic, using a server.

Appellants submit that independent claim 1 recites an additional feature that is not taught by any proper combination of the applied art (i.e., Maso and Fraenkel). More specifically, independent claim 1 recites, in pertinent part:

... defining at least one criterion including all of: a system level criterion, a transaction level criterion, a multi-transactional level criterion, and a workload characteristic

The Examiner asserts that Maso discloses defining criterion including a system level criterion and a workload characteristic at paragraphs 0021-0023 and 0089 (Final Office Action, page 2). The Examiner acknowledges that Maso does not disclose criterion including a transaction level criterion and a multi-transactional level criterion (Final Office Action, page 3). The Examiner contends, however, that Fraenkel teaches criterion including transaction level criterion and a multi-transactional level criterion at col. 18, Table 1, lines 22-25, and col. 31, lines 1-16, 30-33, and 55-62 (Final Office Action, page 3). The Examiner concludes that it would

have been obvious to modify Maso to include transaction level criterion and a multi-transactional level criterion, and that the combined teachings of Maso and Fraenkel result in the claimed invention. Appellants disagree.

Contrary to the Examiner's assertions, Fraenkel does not disclose or suggest multi-transactional level criterion. At the passages identified by the Examiner, Fraenkel discloses that transaction response times are represented in a tree. Fraenkel discloses that a user may use a "group by" button to specify whether transaction response times are to be grouped within the tree. Fraenkel also discloses that the data displayed in the tree may be grouped by transaction. However, merely grouping data associated with transaction response times is not a criterion. Fraenkel makes no mention of a multi-transactional level criterion. Instead, Fraenkel only discloses grouping data together for display purposes, but does not disclose any criterion related to groups of transactions.

In contrast to the applied art, exemplary embodiments of the claimed invention define and utilize criteria related to groups of transactions when deciding whether to take remedial action. This is described, for example, at pages 18-20 of Appellants' specification, portions of which are reproduced below.

[0037] Multi-transaction criterion evaluations deal with the characteristics of groups of transactions relative to the overall system's present/current characteristics. These evaluations are similar to transaction level criterion evaluation, with the added concept of "transaction groups", which may be built and administered by an administrator or pre-built and obtained from an electronic source. Examples of such transaction groups are provided in TABLE 2.

...

[0038] The concept of transaction groups permits aggregated accounting of transactions over similar or related entities (e.g., same server, search functions, etc.) or common identifier (e.g., IP subnet, transmission medium, etc.) and applying a transaction group level metric to the aggregated entities. This is illustrated by way of example, by referring to FIG. 2E, at step 700 the facility acquires a list of aggregate transaction groups from the Interval Criterion tables 790 which defines aggregations of related transaction types or characteristics.

Fraenkel does not disclose a multi-transactional level criterion. Instead, Fraenkel only discloses grouping data together for display purposes, but does not disclose any criterion related

to groups of transactions. As the Examiner admits that Maso does not disclose multi-transactional level criterion, it follows that the applied art does not teach *defining at least one criterion including all of: a system level criterion, a transaction level criterion, a multi-transactional level criterion, and a workload characteristic*, as recited in claim 1. Therefore, the applied art does not disclose or suggest all of the features of claim 1, and does not render claim 1 unpatentable.

(iii) The rejection is improperly conclusory because the Examiner has not articulated the requisite findings of fact to support an obviousness determination.

The Examiner asserts that certain claimed features that are missing from Maso can be found in Fraenkel. As discussed above, Appellants disagree that Fraenkel compensates for the deficiencies of Maso with respect to the recited features of claim 1. Moreover, even assuming *arguendo* that Fraenkel can reasonably be construed as teaching the recited features that are missing from Maso, Appellants submit that merely identifying the various elements of a claim in the prior art is not sufficient to establish a *prima facie* case of obviousness. Instead, according to MPEP 2143, when rejecting a claim using the rationale of combining prior art elements, the Examiner must articulate:

(1) a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference;

(2) a finding that one of ordinary skill in the art could have combined the elements as claimed by known methods, and that in combination, each element merely performs the same function as it does separately;

(3) a finding that one of ordinary skill in the art would have recognized that the results of the combination were predictable; and

(4) whatever additional findings based on the Graham factual inquiries may be necessary, in view of the facts of the case under consideration, to explain a conclusion of obviousness.

Appellants submit that the rejection is improper because the Examiner has failed to articulate at least findings (2) and (3), noted above. That is, the Examiner has not explained how the teachings of Fraenkel even could be used with Maso, much less that the combined element (from Fraenkel) would perform the same function in combination (with Maso) as it did separately in Fraenkel. Moreover, the Examiner has not articulated a finding that one of ordinary skill in the art would have recognized that the results of the proposed combination of Maso and Fraenkel were predictable.

Instead of articulating the above-noted findings, the Examiner has merely selected the elements of claim 1, alleged these elements to be present in Fraenkel, and alleged that a person of skill in the art would have incorporated these elements into Maso. Applicants traverse this rejection as being conclusory. Conclusory rejections are unsustainable, as mandated by the Supreme Court and subsequently adopted in MPEP §2142 in the following passage:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, ___, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR*, 550 U.S. at ___, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval).

In the instant rejection, the Examiner has not provided an explicit analysis to support the rejection under §103. Instead, the Examiner only identifies elements of claim 1 that are missing from Maso, alleges these elements to be present in Fraenkel, and concludes that the claimed invention would have been obvious in view of Maso and Fraenkel. This type of rejection clearly falls short of the standard set forth in *KSR* and later adopted in MPEP §2143.

For all of the above-noted reasons, Appellants submit that the Examiner has failed to establish a *prima facie* case of obviousness with respect to claim 1. Particularly, Appellants submit that the applied art (i.e., Maso and Fraenkel) does not disclose or suggest: (i) *implementing an interval criterion matrix using the server, wherein the interval criterion matrix*

is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source, or (ii) defining at least one criterion including all of: a system level criterion, a transaction level criterion, a multi-transactional level criterion, and a workload characteristic, much less a combination of these two features. Moreover, the Examiner has not factually established that these features are inherent in the teachings of Maso and Fraenkel. Nor has the Examiner factually established that these features are well known to those of ordinary skill in the art, and that it would have been obvious to add such features to the base reference (i.e., Maso). It is well established that the examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of non-obviousness (see, e.g., MPEP §2142).

Therefore, Appellants submit that no proper combination of Maso and Fraenkel teaches the combination of features recited in claim 1. As such, the applied art does not render the claimed invention unpatentable. Claims 3-11, 13-15, 18, 40, 43, 44, and 46-49 depend from claim 1 and stand with claim 1.

Accordingly, Appellants respectfully request that the Board reverse the rejection of claims 1, 3-11, 13-15, 18, 40, 43, 44, and 46-49 and remand the application to the Examining Group for further proceedings.

Claim 12

The rejection of claim 12 under 35 U.S.C. §103(a) is in error, and the decision to reject this claim should be reversed.

Claim 12 depends from claim 1 and additionally recites *the performing step is only performed when both the system level threshold metric and the transaction level threshold metric are met*. The Examiner asserts that Fraenkel discloses this feature at columns 25, 26, and 46 (Final Office Action, page 5). Appellants respectfully disagree.

At line 45 of col. 25 through line 2 of col. 26, Fraenkel discloses sending transaction execution data and server resource data to any of a database 42, a web reports server 36, and a controller 34. However, Fraenkel does not disclose performing a defined action only when both a system level metric and a transaction level metric are met. Instead, Fraenkel merely discloses sending the data, and makes no mention of performing an action based on two metrics being satisfied, much less performing such action only when the two metrics are satisfied.

At lines 5-11 of col. 46, Fraenkel discloses analyzing performance data and taking corrective action when certain types of server resources are determined to be the cause of a performance problem according to a set of predefined rules. However, this passage makes no mention of a transaction level threshold metric, much less of taking corrective action only when both a system level metric and a transaction level metric are met. Instead, Fraenkel only discloses performance data.

Therefore, Fraenkel does not disclose or suggest *the performing step is only performed when both the system level threshold metric and the transaction level threshold metric are met*, as recited in claim 12. Moreover, the Examiner has not factually established that *the performing step is only performed when both the system level threshold metric and the transaction level threshold metric are met* is inherent in the teachings of Maso and Fraenkel. Nor has the Examiner factually established that *the performing step is only performed when both the system level threshold metric and the transaction level threshold metric are met* is well known to those of ordinary skill in the art, and that it would have been obvious to add such features to the base reference (i.e., Maso). Therefore, Appellants submit that no proper combination of Maso and Fraenkel teaches the combination of features recited in claim 12. Accordingly, Appellants respectfully request that the rejection of claim 12 be reversed.

Claim 16

The rejection of claim 16 under 35 U.S.C. §103(a) is in error, and the decision to reject this claim should be reversed. Claim 16 depends from claim 1 and additionally recites:

16. The method of claim 1, further comprising:
 - acquiring a transaction list of currently executing transactions;
 - collecting details for each of the currently executing transactions;
 - evaluating transaction details against the interval criterion matrix which further defines thresholds associated with the currently executing transactions; and
 - performing actions when the evaluation step determines a threshold has been met.

The Examiner asserts that Fraenkel discloses *evaluating transaction details against the interval criterion matrix which further defines thresholds associated with the currently executing*

transactions at col. 17, lines 26-30 and col. 29, lines 8-14 (Final Office Action, page 6). Appellants disagree.

As discussed above with respect to claim 1, Appellants submit that neither Maso nor Fraenkel teaches an interval criterion matrix as recited in the claimed invention and as disclosed in Appellants' specification. Therefore, it is arguably impossible for Maso and Fraenkel to teach the features of claim 16 that are defined in terms of the interval criterion matrix.

In any event, Appellants submit that the passages of Fraenkel identified by the Examiner does not teach *evaluating transaction details against the interval criterion matrix which further defines thresholds associated with the currently executing transactions*, as recited in claim 16. More specifically, at lines 26-30 of col. 17, Fraenkel discloses a matrix that is generated by a reports server and displayed to a user (see FIG. 16 of Fraenkel). The cells of the matrix are color-coded to reflect the response time of the particular transaction during in the particular time frame. However, this passage makes no mention of evaluating transaction details against any criteria, much less against an interval criterion matrix which further defines thresholds associated with the currently executing transactions. Instead, this passage only stands for the proposition of displaying response time of transactions to a user in a color-coded format, and there is no mention of evaluating a transaction response time against criteria.

At lines 8-14 of col. 29, Fraenkel discloses a root cause analysis application that automatically analyzes collected data to locate performance degradations. However, this passage makes no mention of an interval criterion matrix. Therefore, there is no teaching of evaluating anything against an the interval criterion matrix, much less *evaluating transaction details against the interval criterion matrix which further defines thresholds associated with the currently executing transactions*, as recited in claim 16.

Therefore, Fraenkel does not disclose or suggest *evaluating transaction details against the interval criterion matrix which further defines thresholds associated with the currently executing transactions*, as recited in claim 16. Moreover, the Examiner has not factually established that *evaluating transaction details against the interval criterion matrix which further defines thresholds associated with the currently executing transactions* is inherent in the teachings of Maso and Fraenkel. Nor has the Examiner factually established that *evaluating transaction details against the interval criterion matrix which further defines thresholds associated with the currently executing transactions* is well known to those of ordinary skill in

the art, and that it would have been obvious to add such features to the base reference (i.e., Maso). Therefore, Appellants submit that no proper combination of Maso and Fraenkel teaches the combination of features recited in claim 16. Accordingly, Appellants respectfully request that the rejection of claim 16 be reversed.

Claims 17, 41, and 42

The rejection of claims 17, 41, and 42 under 35 U.S.C. §103(a) is in error, and the decision to reject these claims should be reversed. Claim 17 depends from claim 1 and additionally recites:

17. The method of claim 1, further comprising:
acquiring a list of aggregate transaction groups;
collecting details for each aggregate transaction group;
evaluating each aggregated transaction group details
against the interval criterion matrix which further defines
thresholds associated with each aggregated transaction group; and
performing actions when the evaluation step determines a
threshold has been met.

The Examiner asserts that Fraenkel discloses *evaluating each aggregated transaction group details against the interval criterion matrix which further defines thresholds associated with each aggregated transaction group* at col. 4, lines 54-60 and col. 31, lines 55-62 (Final Office Action, pages 6-7). Appellants disagree.

As discussed above with respect to claim 1, Appellants submit that neither Maso nor Fraenkel teaches an *interval criterion matrix*. As further argued with respect to claim 1, Appellants submit that neither Maso nor Fraenkel teaches *thresholds associated with each aggregated transaction group*. Therefore, Maso and Fraenkel cannot reasonably be construed as teaching the features of claim 16 that are defined in terms of the interval criterion matrix and thresholds associated with each aggregated transaction group.

In any event, Appellants submit that the passages of Fraenkel identified by the Examiner does not teach *evaluating each aggregated transaction group details against the interval criterion matrix which further defines thresholds associated with each aggregated transaction group*, as recited in claim 17. More specifically, at lines 54-60 of col. 4, Fraenkel discloses that a reports server provides various user-configurable charts, tables and graphs displaying the response times and server resource utilization parameters, and provides functions for facilitating

an evaluation of whether a correlation exists between changes in the response times and changes in values of specific server resource utilization parameters. However, this passage is silent with respect to an interval criterion matrix which defines thresholds associated with each aggregated transaction group. In fact, this passage does not even mention an interval criterion matrix. Moreover, the passage makes no mention of thresholds associated with an aggregated transaction group.

At lines 55-62 of col. 31, Fraenkel discloses that status indicators are based on a severity grade assigned to each instance (i.e., each measurement) of a parameter. Uniformity threshold percentages, which may be defined by the user or by default in the RCA system, are used to ensure that a displayed transaction node is not assigned a poor status indicator if only a small fraction of the instances grouped under the node are actually performing poorly. However, this passage makes no mention of an interval criterion matrix. Moreover, the passage makes no mention of thresholds associated with an aggregated transaction group. Therefore, there is no teaching of evaluating anything against an the interval criterion matrix, much less *evaluating each aggregated transaction group details against the interval criterion matrix which further defines thresholds associated with each aggregated transaction group*, as recited in claim 17.

Therefore, Fraenkel does not disclose or suggest *evaluating each aggregated transaction group details against the interval criterion matrix which further defines thresholds associated with each aggregated transaction group*, as recited in claim 17. Moreover, the Examiner has not factually established that *evaluating each aggregated transaction group details against the interval criterion matrix which further defines thresholds associated with each aggregated transaction group* is inherent in the teachings of Maso and Fraenkel. Nor has the Examiner factually established that *evaluating each aggregated transaction group details against the interval criterion matrix which further defines thresholds associated with each aggregated transaction group* is well known to those of ordinary skill in the art, and that it would have been obvious to add such features to the base reference (i.e., Maso).

Therefore, Appellants submit that no proper combination of Maso and Fraenkel teaches the combination of features recited in claim 17. Claims 41 and 42 depend from claim 17 and stand with claim 17. Accordingly, Appellants respectfully request that the rejection of claims 17, 41, and 42 be reversed.

Claim 45

The rejection of claim 45 under 35 U.S.C. §103(a) is in error, and the decision to reject this claim should be reversed.

Claim 45 depends indirectly from claim 1 and additionally recites *the multi-transactional level criterion is dynamically evaluated based upon transaction-specific characteristics*. The Examiner asserts that Fraenkel discloses this feature at columns 4, 5, 16, 17, and FIG. 16 (Final Office Action, page 12). Appellants respectfully disagree.

As discussed above with respect to claim 1, Appellants submit that neither Maso nor Fraenkel teaches a *multi-transactional level criterion*. Instead, Fraenkel only discloses grouping data together for display purposes, but does not disclose any criterion related to groups of transactions.

Therefore, Fraenkel does not disclose or suggest *the multi-transactional level criterion is dynamically evaluated based upon transaction-specific characteristics*, as recited in claim 45. Moreover, the Examiner has not factually established that *the multi-transactional level criterion is dynamically evaluated based upon transaction-specific characteristics* is inherent in the teachings of Maso and Fraenkel. Nor has the Examiner factually established that *the multi-transactional level criterion is dynamically evaluated based upon transaction-specific characteristics* is well known to those of ordinary skill in the art, and that it would have been obvious to add such features to the base reference (i.e., Maso). Therefore, Appellants submit that no proper combination of Maso and Fraenkel teaches the combination of features recited in claim 45. Accordingly, Appellants respectfully request that the rejection of claim 45 be reversed.

Claims 19-23 and 25

The rejection of claims 19-23 and 25 under 35 U.S.C. §103(a) is in error, and the decision to reject these claims should be reversed.

Independent claim 19 recites:

19. A method of managing a system, comprising the steps of:
 - determining current conditions of a workload characteristic using a server;
 - evaluating the current conditions of the workload characteristic using the server;
 - dynamically adjusting system administration criteria based on a threshold metric associated with the current conditions of the workload characteristic using the server; and

implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source.

The Examiner asserts that Maso discloses all of the features of claim 19 except for *implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source* (Final Office Action, pages 7-8). The Examiner asserts that Fraenkel discloses the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source (Final Office Action, page 8).

Initially Appellants submit that the rejection is improper because the Examiner does not even allege a *prima facie* case of obviousness. The Examiner does not assert or contend that it would have been obvious to combine the teachings of Maso and Fraenkel to arrive at the combination of features recited in claim 19. Instead, the Examiner merely attempts to identify various features of claim 19 in the respective references.

However, as noted in the Supreme Court's *KSR* decision (cited *supra*), rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. Moreover, the Court of Appeals for the Federal Circuit has noted the importance of identifying "a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does" in an obviousness determination. See, e.g., *Takeda Chemical Industries, Ltd. v. Alphapharm Pty., Ltd.*, 492 F.3d 1350, 1356-1357 (Fed. Cir. 2007) (quoting *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1731 (2007)). See also MPEP §2143.

In the case of claim 19, the Examiner has not provided any articulated reasoning to support the conclusion of obviousness. For example, the examiner has not articulated how one of ordinary skill in the art would find that the teachings of Fraenkel could be used with Maso, much less that the combined element (from Fraenkel) would perform the same function in combination (with Maso) as it did separately in Fraenkel. Moreover, the Examiner has not articulated a finding that one of ordinary skill in the art would have recognized that the results of the proposed combination of Maso and Fraenkel were predictable. Instead, the Examiner merely attempts to identify elements of claim 19 in both Maso and Fraenkel.

Moreover, with respect to claim 19, the Examiner has not identified a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does. Instead, the Examiner merely attempts to identify the features of claim 19 in both Maso and Fraenkel. Thus, the rejection of claim 19 is conclusory and the Examiner has committed clear error in rejecting claim 19 under §103 in view of Maso and Fraenkel.

In any event, Appellants submit that the applied art does not teach or suggest all of the features of claim 19. As discussed above with respect to claim 1, neither Maso nor Fraenkel teaches *implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source*. In fact, neither Maso nor Fraenkel even teaches an interval criterion matrix as recited in the claims and described in Appellants' specification, much less implementing such an interval criterion matrix.

Therefore, Appellants submit that no proper combination of Maso and Fraenkel teaches the combination of features recited in claim 19. As such, the applied art does not render the claimed invention unpatentable. Claims 20-23 and 25 depend from claim 19 and stand with claim 19.

Accordingly, Appellants respectfully request that the Board reverse the rejection of claims 19-23 and 25 and remand the application to the Examining Group for further proceedings.

Claim 24

The rejection of claim 24 under 35 U.S.C. §103(a) is in error, and the decision to reject this claim should be reversed.

Claim 24 depends indirectly from independent claim 19 and additionally recites *the dynamically adjusting step is only performed when both the system level threshold metric and the transaction level threshold metric are met*. The Examiner asserts that claim 24 has similar limitations as claim 12 and is rejected for the same reasons as claim 12 (Final Office Action, page 8). Appellants respectfully disagree.

As discussed above with respect to claim 12, Appellants submit that the applied art does not teach *the dynamically adjusting step is only performed when both the system level threshold metric and the transaction level threshold metric are met*. Instead, at line 45 of col. 25 through line 2 of col. 26, Fraenkel discloses sending transaction execution data and server resource data

to any of a database 42, a web reports server 36, and a controller 34. However, Fraenkel does not disclose performing a defined action when only both a system level metric and a transaction level metric are met. Instead, Fraenkel only discloses sending the data, and makes no mention of performing an action based on two metrics being satisfied, much less performing such action only when the two metrics are satisfied.

Furthermore, at lines 5-11 of col. 46, Fraenkel discloses analyzing performance data and taking corrective action when certain types of server resources are determined to be the cause of a performance problem according to a set of predefined rules. However, this passage makes no mention of a transaction level threshold metric, much less of taking corrective action only when both a system level metric and a transaction level metric are met. Instead, Fraenkel only discloses performance data.

Therefore, Fraenkel does not disclose or suggest *the dynamically adjusting step is only performed when both the system level threshold metric and the transaction level threshold metric are met*, as recited in claim 24. Therefore, Appellants submit that no proper combination of Maso and Fraenkel teaches the combination of features recited in claim 24. Accordingly, Appellants respectfully request that the rejection of claim 24 be reversed.

Claims 26-28, 30, and 31

The rejection of claims 26-28, 30, and 31 under 35 U.S.C. §103(a) is in error, and the decision to reject these claims should be reversed.

Independent claim 26 recites:

26. A computer system for managing a transaction processing system, the computer system comprising:
 - a means for defining at least one criterion including all of: a system level criterion, a transaction level criterion, a multi-transactional level criterion, and a workload characteristic of the transaction processing system;
 - a means for defining at least one threshold metric for each of the at least one criterion;
 - a means for defining at least one trigger action in response to the at least one threshold metric; and
 - a means for implementing an interval criterion matrix, which is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source.

The Examiner asserts that Maso teaches all of the features of independent claim 1 except for implementing an interval criterion matrix (Final Office Action, page 9). Appellants agree that Maso does not teach *implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source*, as recited in the claimed invention. However, the Examiner asserts that Fraenkel teaches this feature at col. 3, lines 1-43 and lines 62-67; col. 4, lines 1-10; and col. 25, lines 21-29 (Final Office Action, page 9). Appellants respectfully disagree with the conclusion of obviousness for the following reasons.

As discussed *supra* with respect to claim 1, Appellants submit that the applied art does not teach or suggest *implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source*. Since the applied art does not teach or suggest *implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source*, it logically follows that the applied art does not teach or suggest *a means for implementing an interval criterion matrix, which is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source*, as recited in claim 26.

As additionally discussed with respect to claim 1, Appellants submit that the applied art does not teach or suggest *defining at least one criterion including all of: a system level criterion, a transaction level criterion, a multi-transactional level criterion, and a workload characteristic, using a server*. Since the applied art does not teach or suggest *defining at least one criterion including all of: a system level criterion, a transaction level criterion, a multi-transactional level criterion, and a workload characteristic, using a server*, it logically follows that the applied art does not teach or suggest *a means for defining at least one criterion including all of: a system level criterion, a transaction level criterion, a multi-transactional level criterion, and a workload characteristic of the transaction processing system*, as recited in claim 26. Therefore, the applied art does not teach all of the features of independent claim 26.

Moreover, even assuming for arguments sake that the applied art can reasonably be construed as teaching the features of claim 26, the rejection is unsustainable because it is conclusory. That is, the Examiner has not explained how the teachings of Fraenkel even could be used with Maso, much less that the combined elements (from Fraenkel) would perform the same

function in combination (with Maso) as they did separately in Fraenkel. Moreover, the Examiner has not articulated a finding that one of ordinary skill in the art would have recognized that the results of the proposed combination of Maso and Fraenkel were predictable. Therefore, the rejection is improperly conclusory because the Examiner has not articulated the requisite findings of fact to support an obviousness determination under 35 USC §103.

For the above-noted reasons, Appellants submit that no proper combination of Maso and Fraenkel teaches the combination of features recited in claim 26. As such, the applied art does not render the claimed invention unpatentable. Claims 27, 28, 30, and 31 depend from claim 26 and stand with claim 26.

Accordingly, Appellants respectfully request that the Board reverse the rejection of claims 26-28, 30, and 31 and remand the application to the Examining Group for further proceedings.

Claim 29

The rejection of claim 29 under 35 U.S.C. §103(a) is in error, and the decision to reject this claim should be reversed. Claim 29 depends from claim 26 and additionally recites:

29. (Previously Presented) A computer system of claim 26, further comprising:
a means for acquiring a transaction list of currently executing transactions;
a means for collecting details for each of the currently executing transactions;
a means for evaluating transaction details against the interval criterion matrix wherein the interval criterion matrix further defines thresholds associated with the currently executing transactions; and
a means for performing threshold actions when the evaluation step determines a threshold has been met.

The Examiner asserts that claim 29 has similar limitations as claim 16 and is rejected under the same rationale as claim 16 (Final Office Action, page 10). Appellants disagree with the rejection for the following reasons.

Appellants initially submit that the Examiner has failed to properly establish a *prima facie* case of obviousness with respect to claim 29 because the rejection does not address all of the features recited in claim 29. More specifically, Applicants submit that claim 29 recites features that are not recited in claim 16, such that merely grouping claim 29 with the rejection of

claim 16 cannot serve to establish a *prima facie* case of obviousness with respect to claim 29. For example, claim 29 recites means-plus-function recitations which are not recited in claim 16. Therefore, the explanation of the rejection of claim 16 is insufficient to establish a *prima facie* case of obviousness with respect to claim 29.

This makes the rejection fatally defective on its face, since MPEP §2143.03 states: “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Moreover, 37 C.F.R. §1.104 states: “[t]he examination shall be complete with respect both to compliance of the application or patent under reexamination with the applicable statutes and rules and to the patentability of the invention as claimed ...” (emphasis added). Moreover, MPEP §707.07(d), states that “[a] plurality of claims should never be grouped together in a common rejection, unless that rejection is equally applicable to all claims in the group.” In this case, the Examiner has committed clear error by improperly grouping claim 29 with the rejection of other claims while failing to address the language of claim 29.

In any event, Appellants submit that the applied art does not disclose or suggest all of the features of claim 29. More specifically, Appellants submit that neither Maso nor Fraenkel teaches a *means for evaluating transaction details against the interval criterion matrix wherein the interval criterion matrix further defines thresholds associated with the currently executing transactions*, as recited in claim 29. In order to make a *prima facie* case of equivalence of a claim that includes a means-plus-function recitation, the Examiner must find a prior art element that performs the identical function specified in the claim in substantially the same way and produces substantially the same results (MPEP §2183). Appellants submit that the Examiner has not identified anything in Maso or Fraenkel that performs the identical function of “evaluating transaction details against the interval criterion matrix wherein the interval criterion matrix further defines thresholds associated with the currently executing transactions.”

Instead, in the passages of Fraenkel identified by the Examiner (i.e., lines 26-30 of col. 17), Fraenkel discloses a matrix that is generated by a reports server and displayed to a user (see FIG. 16 of Fraenkel). The cells of the matrix are color-coded to reflect the response time of the particular transaction during in the particular time frame. However, this passage makes no mention of evaluating transaction details against any criteria, much less against an interval criterion matrix which further defines thresholds associated with the currently executing

transactions. Instead, this passage only stands for the proposition of displaying response time of transactions to a user in a color-coded format, and there is no mention of evaluating a transaction response time against criteria.

At lines 8-14 of col. 29, Fraenkel discloses a root cause analysis application that automatically analyzes collected data to locate performance degradations. However, this passage makes no mention of an interval criterion matrix. Therefore, there is no teaching of evaluating anything against an the interval criterion matrix, much less *evaluating transaction details against the interval criterion matrix which further defines thresholds associated with the currently executing transactions*, as recited in claim 29.

Therefore, the applied art does not disclose an element that performs the exact same function as recited in claim 29. As such, the applied art does not teach *a means for evaluating transaction details against the interval criterion matrix which further defines thresholds associated with the currently executing transactions*, as recited in claim 29. Therefore, Appellants submit that no proper combination of Maso and Fraenkel teaches the combination of features recited in claim 29. Accordingly, Appellants respectfully request that the rejection of claim 29 be reversed.

Claims 32-36 and 38

The rejection of claims 32-36 and 38 under 35 U.S.C. §103(a) is in error, and the decision to reject these claims should be reversed.

Independent claim 32 recites:

32. (Previously Presented) A system for managing a transaction processing system comprising computer program code stored on a storage media, the system comprising:
a means for determining current conditions of at least a workload characteristic;
a means for evaluating the current conditions of at least the workload characteristic;
a means for dynamically adjusting system administration criteria based on a threshold metric associated with the current conditions of at least the workload characteristic; and
a means for implementing an interval criterion matrix, which is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source.

The Examiner asserts that claim 32 has similar limitations as claim 19 and is rejected under the same rationale as claim 19 (Final Office Action, page 10). Appellants disagree with the rejection for the following reasons.

Appellants initially submit that the Examiner has failed to properly establish a *prima facie* case of obviousness with respect to claim 32 because the rejection does not address all of the features recited in claim 32. More specifically, Applicants submit that claim 32 recites features that are not recited in claim 19, such that merely grouping claim 32 with the rejection of claim 19 cannot serve to establish a *prima facie* case of obviousness with respect to claim 32. For example, claim 32 recites means-plus-function recitations which are not recited in claim 19. Therefore, the explanation of the rejection of claim 19 is insufficient to establish a *prima facie* case of obviousness with respect to claim 32.

This makes the rejection fatally defective on its face, since MPEP §2143.03 states: “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Moreover, 37 C.F.R. §1.104 states: “[t]he examination shall be complete with respect both to compliance of the application or patent under reexamination with the applicable statutes and rules and to the patentability of the invention as claimed ...” (emphasis added). Moreover, MPEP §707.07(d), states that “[a] plurality of claims should never be grouped together in a common rejection, unless that rejection is equally applicable to all claims in the group.” In this case, the Examiner has committed clear error by improperly grouping claim 32 with the rejection of other claims while failing to address the language of claim 32.

In any event, Appellants submit that the applied art does not disclose or suggest all of the features of claim 32. More specifically, Appellants submit that neither Maso nor Fraenkel teaches a *means for implementing an interval criterion matrix, which is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source*, as recited in claim 32. In order to make a *prima facie* case of equivalence of a claim that includes a means-plus-function recitation, the Examiner must find a prior art element that performs the identical function specified in the claim in substantially the same way and produces substantially the same results (MPEP §2183). Appellants submit that the Examiner has not identified anything in Maso or Fraenkel that performs the identical function of “implementing an interval criterion matrix,

which is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source.”

As discussed *supra*, neither Maso nor Fraenkel teaches *implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source*. In fact, neither Maso nor Fraenkel even teaches an interval criterion matrix as recited in the claims and described in Appellants’ specification, much less implementing such an interval criterion matrix.

Therefore, Appellants submit that no proper combination of Maso and Fraenkel teaches the combination of features recited in claim 32. As such, the applied art does not render the claimed invention unpatentable. Claims 33-36 and 38 depend from claim 32 and stand with claim 32.

Accordingly, Appellants respectfully request that the Board reverse the rejection of claims 32-36 and 38 and remand the application to the Examining Group for further proceedings.

Claim 37

The rejection of claim 37 under 35 U.S.C. §103(a) is in error, and the decision to reject this claim should be reversed.

Claim 37 depends indirectly from independent claim 32 and additionally recites *the means for dynamically adjusting adjusts the system administration criteria when both the system level threshold metric and the transaction level threshold metric are met*. The Examiner asserts that claim 37 has similar limitations as claim 12 and is rejected for the same reasons as claim 12. Appellants respectfully disagree.

As discussed above with respect to claim 12, Appellants submit that the applied art does not teach *the dynamically adjusting step is only performed when both the system level threshold metric and the transaction level threshold metric are met*. Instead, at line 45 of col. 25 through line 2 of col. 26, Fraenkel discloses sending transaction execution data and server resource data to any of a database 42, a web reports server 36, and a controller 34. However, Fraenkel does not disclose performing a defined action only when both a system level metric and a transaction level metric are met. Instead, Fraenkel discloses sending the data, but makes no mention of performing an action based on two metrics being satisfied, much less performing such action only when the two metrics are satisfied.

Furthermore, at lines 5-11 of col. 46, Fraenkel discloses analyzing performance data and taking corrective action when certain types of server resources are determined to be the cause of a performance problem according to a set of predefined rules. However, this passage makes no mention of a transaction level threshold metric, much less of taking corrective action only when both a system level metric and a transaction level metric are met. Instead, Fraenkel only discloses performance data.

Therefore, Fraenkel does not disclose or suggest *the means for dynamically adjusting adjusts the system administration criteria when both the system level threshold metric and the transaction level threshold metric are met*, as recited in claim 37. Therefore, Appellants submit that no proper combination of Maso and Fraenkel teaches the combination of features recited in claim 37. Accordingly, Appellants respectfully request that the rejection of claim 37 be reversed.

Claim 39

The rejection of claim 39 under 35 U.S.C. §103(a) is in error, and the decision to reject this claim should be reversed.

Independent claim 39 recites:

39. A computer program product comprising computer program code stored on a storage medium, the computer program product includes:

- a first computer code to define at least one criterion including all of: a system level criterion, a transaction level criterion, a multi-transactional level criterion, and a workload characteristic of the transaction processing system;
- a second computer code to define at least one threshold metric for each of the at least one criterion;
- a third computer code to define at least one trigger action in response to the at least one threshold metric;
- a fourth computer code to perform the at least one trigger action in response to the at least one threshold metric being met;
- and
- a fifth computer code to implement an interval criterion matrix, which is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source.

The Examiner asserts that claim 39 has similar limitations as claim 1 and is rejected under the same rationale as claim 1 (Final Office Action, page 11). Appellants respectfully disagree with the conclusion of obviousness for the following reasons.

Appellants initially submit that the Examiner has failed to properly establish a *prima facie* case of obviousness with respect to claim 39 because the rejection does not address all of the features recited in claim 39. More specifically, Applicants submit that claim 39 recites features that are not recited in claim 1, such that merely grouping claim 39 with the rejection of claim 1 cannot serve to establish a *prima facie case of obviousness* with respect to claim 39. For example, claim 39 recites a computer program product comprising computer program code stored on a storage medium, which is not recited in claim 1. Therefore, the explanation of the rejection of claim 1 is insufficient to establish a *prima facie* case of obviousness with respect to claim 39.

This makes the rejection fatally defective on its face, since MPEP §2143.03 states: “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Moreover, 37 C.F.R. §1.104 states: “[t]he examination shall be complete with respect both to compliance of the application or patent under reexamination with the applicable statutes and rules and to the patentability of the invention as claimed ...” (emphasis added). Moreover, MPEP §707.07(d), states that “[a] plurality of claims should never be grouped together in a common rejection, unless that rejection is equally applicable to all claims in the group.” In this case, the Examiner has committed clear error by improperly grouping claim 39 with the rejection of other claims while failing to address the language of claim 39.

In any event, Appellants submit that the applied art does not disclose or suggest the combination of features recited in claim 39. Particularly, as discussed herein with respect to claim 1, Appellants submit that the applied art does not teach or suggest *implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source*. Since the applied art does not teach or suggest *implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source*, it logically follows that the applied art does not teach or suggest a computer program product comprising computer program code stored on a storage medium and including a *fifth computer code to implement an interval criterion matrix, which is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source*, as recited in claim 39.

As additionally discussed above with respect to claim 1, Appellants submit that the applied art does not teach or suggest *defining at least one criterion including all of: a system level criterion, a transaction level criterion, a multi-transactional level criterion, and a workload characteristic, using a server*. Since the applied art does not teach or suggest *defining at least one criterion including all of: a system level criterion, a transaction level criterion, a multi-transactional level criterion, and a workload characteristic, using a server*, it logically follows that the applied art does not teach or suggest a computer program product comprising computer program code stored on a storage medium and including *a first computer code to define at least one criterion including all of: a system level criterion, a transaction level criterion, a multi-transactional level criterion, and a workload characteristic of the transaction processing system*, as recited in claim 39. Therefore, the applied art does not teach all of the features of independent claim 39.

Moreover, even assuming for arguments sake that the applied art can reasonably be construed as teaching the features of claim 39, the rejection is unsustainable because it is conclusory. That is, the Examiner has not explained how the teachings of Fraenkel even could be used with Maso, much less that the combined elements (from Fraenkel) would perform the same function in combination (with Maso) as they did separately in Fraenkel. Moreover, the Examiner has not articulated a finding that one of ordinary skill in the art would have recognized that the results of the proposed combination of Maso and Fraenkel were predictable. Therefore, the rejection is improperly conclusory because the Examiner has not articulated the requisite findings of fact to support an obviousness determination under 35 USC §103.

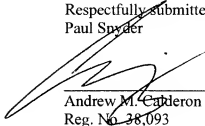
Therefore, Appellants submit that no proper combination of Maso and Fraenkel teaches the combination of features recited in claim 39. As such, the applied art does not render the claimed invention unpatentable. Accordingly, Appellants respectfully request that the Board reverse the rejection of claim 39 and remand the application to the Examining Group for further proceedings.

CONCLUSION

In view of the foregoing remarks, Appellants submit that claims 1 and 3-49 are patentably distinct from the prior art of record and are in condition for allowance. Accordingly, Appellant respectfully requests that the Board reverse the Examiner's rejection of claims 1 and 3-49 and remand the application to the Examining Group for allowance of the pending claims.

Respectfully submitted,
Paul Snyder

Andrew Wright
Reg. No. 58,267



Andrew M. Calderon
Reg. No. 38,093

Roberts Mlotkowski Safran & Cole, P.C.
P.O. Box 10064
McLean, VA 22102
Phone: 703.584.3270
Fax: 703.848.2981

(VIII) CLAIMS APPENDIX

The following is a listing of the claims involved in the appeal.

1. A method for managing a transaction processing system, the method comprising:
defining at least one criterion including all of: a system level criterion, a transaction level criterion, a multi-transactional level criterion, and a workload characteristic, using a server;
defining at least one threshold metric for each of the at least one criterion using the server;
defining at least one trigger action in response to the at least one threshold metric using the server;
performing the at least one trigger action in response to the at least one threshold metric being met using the server; and
implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source.
3. The method of claim 1, wherein the defining at least one trigger action step includes defining at least one of a system level trigger action and a transaction level trigger action.
4. The method of claim 1, wherein the at least one criterion includes at least one of a processor utilization characteristic, memory utilization characteristic, an input/output characteristic, a storage characteristic, and a network interface characteristic.
5. The method of claim 1, wherein defining at least one threshold metric includes defining at least one of a single and a progressive variable relative to a measurement of an aspect of the transaction processing system.
6. The method of claim 1, further including repeating each of the steps at predefined intervals.

7. The method of claim 1, wherein the at least one trigger action includes at least one of changing the priority of a transaction, terminating a transaction, delaying a transaction, quiescing a transaction, causing another system to stop forwarding transactions, triggering routing of transactions to a different system, and ending a process.

8. The method of claim 1, further comprising:
defining at least one transaction identifier that identifies subsets of transactions; and
defining at least one transaction level threshold metric associated with the at least one transaction identifier.

9. The method of claim 8, wherein the performing step performs the at least one trigger action on a transaction associated with the at least one transaction identifier.

10. The method of claim 9, wherein the performing step performs when the at least one transaction level threshold metric is met.

11. The method of claim 8, further comprising:
defining a system level threshold metric; and
associating the system level threshold metric with the at least one transaction identifier and with the at least one transaction level threshold metric.

12. The method of claim 11, wherein the performing step is only performed when both the system level threshold metric and the transaction level threshold metric are met.

13. The method of claim 8, wherein the defining at least one transaction identifier includes defining a transaction group identifier.

14. The method of claim 1, wherein the defining at least one threshold metric defines a transaction group level metric.

15. The method of claim 1, further comprising the steps of:

- loading runtime parameters;
- validating the runtime parameters; and
- terminating processing if the parameters are deemed unacceptable.

16. The method of claim 1, further comprising:
acquiring a transaction list of currently executing transactions;
collecting details for each of the currently executing transactions;
evaluating transaction details against the interval criterion matrix which further defines thresholds associated with the currently executing transactions; and
performing actions when the evaluation step determines a threshold has been met.

17. The method of claim 1, further comprising:
acquiring a list of aggregate transaction groups;
collecting details for each aggregate transaction group;
evaluating each aggregated transaction group details against the interval criterion matrix which further defines thresholds associated with each aggregated transaction group; and
performing actions when the evaluation step determines a threshold has been met.

18. The method of claim 1, further comprising collecting data on the status of the transaction processing system, wherein the collecting is performed by one of executable collection logic and interpretable definitions.

19. A method of managing a system, comprising the steps of:
determining current conditions of a workload characteristic using a server;
evaluating the current conditions of the workload characteristic using the server;
dynamically adjusting system administration criteria based on a threshold metric associated with the current conditions of the workload characteristic using the server; and
implementing an interval criterion matrix using the server, wherein the interval criterion matrix is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source.

20. The method of claim 19, wherein the workload characteristic is at least one of a transaction workload characteristic and a system environment workload characteristic.

21. The method of claim 19, wherein the workload characteristic is a transaction processing system characteristic.

22. The method of claim 19, wherein the adjusting includes at least one of changing the priority of a transaction, terminating a transaction, delaying a transaction, quiescing a transaction, causing another system from forwarding transactions, triggering routing of transactions to a different system, and ending a process.

23. The method of claim 19, further comprising the steps of:
defining a system level threshold metric associated with the workload characteristic;
defining at least one transaction identifier that identifies subsets of transactions;
defining at least one transaction level threshold metric associated with the at least one transaction identifier and a transaction workload characteristic; and
associating the system level threshold metric with the at least one transaction identifier and with the at least one transaction level threshold metric.

24. The method of claim 23, wherein the dynamically adjusting step is only performed when both the system level threshold metric and the transaction level threshold metric are met.

25. The method of claim 23, wherein the dynamically adjusting step is only performed when at least one of the system level threshold metric and the transaction level threshold metric is met.

26. A computer system for managing a transaction processing system, the computer system comprising:

a means for defining at least one criterion including all of: a system level criterion, a transaction level criterion, a multi-transactional level criterion, and a workload characteristic of the transaction processing system;

- a means for defining at least one threshold metric for each of the at least one criterion;
- a means for defining at least one trigger action in response to the at least one threshold metric; and
- a means for implementing an interval criterion matrix, which is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source.

27. A computer system of claim 26, further comprising:

- a means for defining at least one transaction identifier that identifies subsets of transactions;
- a means for defining at least one transaction level threshold metric associated with the at least one transaction identifier;
- a means for defining a system level threshold metric; and
- a means for associating the system level threshold metric with the at least one transaction identifier and with the at least one transaction level threshold metric.

28. A computer system of claim 26, further comprising:

- a means for loading runtime parameters;
- a means for validating the runtime parameters; and
- a means for terminating processing if the parameters are deemed unacceptable.

29. A computer system of claim 26, further comprising:

- a means for acquiring a transaction list of currently executing transactions;
- a means for collecting details for each of the currently executing transactions;
- a means for evaluating transaction details against the interval criterion matrix wherein the interval criterion matrix further defines thresholds associated with the currently executing transactions; and
- a means for performing threshold actions when the evaluation step determines a threshold has been met.

30. A computer system of claim 26, further comprising a criterion matrix, wherein the criterion matrix comprises:

a system level metric entry that provides a system level threshold for a system level workload characteristic;

a transaction identifier entry that provides an identification for one of a transaction and a transaction group;

a transaction level metric entry that provides a transaction level threshold for transaction type defined by the transaction identifier; and

a facility action entry for identifying logic to be executed if at least one of the system level threshold and the transaction level threshold is met.

31. A computer system of claim 26, further comprising a means for performing the at least one trigger action in response to the at least one threshold metric being met.

32. A system for managing a transaction processing system comprising computer program code stored on a storage media, the system comprising:

a means for determining current conditions of at least a workload characteristic;

a means for evaluating the current conditions of at least the workload characteristic;

a means for dynamically adjusting system administration criteria based on a threshold metric associated with the current conditions of at least the workload characteristic; and

a means for implementing an interval criterion matrix, which is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source.

33. The system of claim 32, wherein the at least one workload characteristic is at least one of a transaction workload characteristic and a system environment workload characteristic.

34. The system of claim 32, wherein the at least one workload characteristic is a transaction processing system characteristic.

35. The system of claim 32, wherein the means for dynamically adjusting provides for at least one of changing the priority of a transaction, terminating a transaction, delaying a transaction, quiescing a transaction, causing another system to stop forwarding transactions, triggering routing of transactions to a different system, and ending a process.

36. The system of claim 32, further comprising the steps of:

- a means for defining a system level threshold metric associated with the workload characteristic;
- a means for defining at least one transaction identifier that identifies subsets of transactions;
- a means for defining at least one transaction level threshold metric associated with the at least one transaction identifier and a transaction workload characteristic; and
- a means for associating the system level threshold metric with the at least one transaction identifier and with the at least one transaction level threshold metric.

37. The system of claim 36, wherein the means for dynamically adjusting adjusts the system administration criteria when both the system level threshold metric and the transaction level threshold metric are met.

38. The system of claim 36, wherein the means for dynamically adjusting provides for only adjusting when at least one of the system level threshold metric and the transaction level threshold metric is met.

39. A computer program product comprising computer program code stored on a storage medium, the computer program product includes:

- a first computer code to define at least one criterion including all of: a system level criterion, a transaction level criterion, a multi-transactional level criterion, and a workload characteristic of the transaction processing system;
- a second computer code to define at least one threshold metric for each of the at least one criterion;
- a third computer code to define at least one trigger action in response to the at least one threshold metric;
- a fourth computer code to perform the at least one trigger action in response to the at least one threshold metric being met; and

a fifth computer code to implement an interval criterion matrix, which is a source of configurable data and is created by an administrator or accessed from a pre-built electronic source.

40. The method of claim 1, wherein the workload characteristic is in a pre-provided list of characteristics configured to be assessed by a facility.

41. The method of claim 17, wherein each aggregated transaction group is built and administered by an administrator.

42. The method of claim 41, wherein each aggregated transaction group is pre-built and obtained from an electronic source.

43. The method of claim 1, wherein the system level criterion is dynamically evaluated based upon system-level health characteristics.

44. The method of claim 43, wherein the transactional level criterion is dynamically evaluated based upon transaction-specific characteristics.

45. The method of claim 44, wherein the multi-transactional level criterion is dynamically evaluated based upon transaction-specific characteristics.

46. The method of claim 40, wherein the facility is a software extension of the transaction processing system.

47. The method of claim 1, further comprising:
evaluating the system level criterion from an interval criterion data source;
checking whether the system level criterion evaluation results in a required action;
determining whether there are additional system level criterion evaluations to be performed; and

carrying out the required action, which is defined by the interval criterion data source, using logic of an interval criterion action.

48. The method of claim 47, wherein the interval criterion action includes informing a peer server that a triggering server is available to accept work, alerting a remote operator of an anomalous condition, or triggering a diagnostic trace on a storage area network unit.

49. The method of claim 48, further comprising:

using an interval controller to halt processing for a set period of time, act upon various timers which change based upon results of scan cycles, and resume processing based upon one or more system characteristics.

(IX) EVIDENCE APPENDIX

This section lists evidence submitted pursuant to 37 C.F.R. §§1.130, 1.131, or 1.132, or any other evidence entered by the Examiner and relied upon by Appellant in this appeal, and provides for each piece of evidence a brief statement setting forth where in the record that evidence was entered by the Examiner. Copies of each piece of Evidence are provided as required by 37 C.F.R. §41.37(c)(1)(ix).

NO.	EVIDENCE	BRIEF STATEMENT SETTING FORTH WHERE IN THE RECORD THE EVIDENCE WAS ENTERED BY THE EXAMINER
1	N/A	N/A

(X) RELATED PROCEEDINGS APPENDIX

Pursuant to 37 C.F.R. §41.37(c)(1)(x), copies of the following decisions rendered by a court or the Board in any proceeding identified above in the Related Appeals and Interferences section.

NO.	TYPE OF PROCEEDING	REFERENCE NO.	DATE
1	N/A	N/A	N/A